SUPREME COURT, U. S.
MAR 11 1974
MICHAEL RODAK, JR., CLERK

No. 73-1124

In the Supreme Court of the United States

OCTOBER TERM, 1973

GEORGE I. NORMAN, JR., PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

ROBERT H. BORK,
Solicitor General,
Department of Justice,
Washington, D.C. 20530.

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After a joint trial with four co-defendants before a jury in the United States District Court for the District of Colorado, petitioner was convicted of having misapplied funds of a federally insured bank, in violation of 18 U.S.C. 656 and 18 U.S.C. 2.[1] He was fined $2,000 on each of two counts and received concurrent sentences of three years' imprisonment. The court of appeals affirmed (464 F. 2d 648). This Court denied certiorari (409 U.S. 1107).

On March 1, 1973, the court of appeals issued its mandate directing petitioner to surrender to the United States Marshal on March 12, 1973 to serve the sentence imposed. Also on March 1, 1973, petitioner applied to the

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[1]The co-defendants were convicted on similar charges.

district court for a writ of error *coram nobis* on the ground that 18 U.S.C. 656 had been improperly applied to his conduct. On March 12, 1973, while petitioner's application for the writ was pending, he failed to surrender to custody as ordered and a bench warrant for his arrest was issued. On June 27, 1973, the district court denied the application for the writ in a written order (Pet. App. 1-3). On October 24, 1973 the court of appeals dismissed petitioner's appeal from the denial of the writ on the ground that he was a fugitive (Pet. App. 4-5).

Because petitioner is still a fugitive, further review is not warranted. See *Molinaro* v. *New Jersey,* 396 U.S. 365.

It is therefore respectfully submitted that the petition for a writ of certiorari be denied.

ROBERT H. BORK,
Solicitor General.

MARCH 1974.